

BEFORE THE IDAHO STATE BOARD OF EQUALIZATION

In the Matter of the 2025)	
Operating Property Ad Valorem)	DOCKET NO. 0-921-670-656
Valuation of)	DECISION
)	
BIRCH POWER COMPANY DBA BIRCH)	
CREEK HYDRO)	
Petitioner.)	
)	
)	
)	

Birch Power Company DBA Birch Creek Hydro (“Petitioner”) filed a timely protest of the value of its operating property (“the Property”) on the basis that the Property Tax Division of the Idaho State Tax Commission (“Staff”) improperly and incorrectly appraised the Property. Tom Arkoosh, Arkoosh Law Offices, represented Petitioner. Matt Shriver, Deputy Attorney General, represented the Staff. Pursuant to Property Tax Administrative Rule 407.02, Petitioner requested an appealable decision in lieu of a hearing before the Idaho State Tax Commission sitting as the Idaho State Board of Equalization (the “Board”). To that end, Petitioner and Staff jointly entered a stipulation requesting that the Board decide the matter on the record without a hearing.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Annually, the Board assesses operating property pursuant to Chapter 4, Title 63, Idaho Code. As is relevant to this case, the term “[o]perating property” means real and personal property operated in connection with any public utility[.]” Idaho Code § 201(16). The Board annually assesses the value of operating property “at market value for assessment purposes as of 12:01 a.m. of the first day of January in the year in which such property taxes are levied[.]” Idaho Code § 63-205, 207, & 405.

The Property is a hydroelectric facility that produces and sells electricity pursuant to the federal Public Utility Regulatory Policies Act. By statute, Petitioner is classified as a public utility

as it is a “power producer[] included within federal law.” Idaho Code § 63-201(21) and *see* 16 U.S.C. § 824a-3. As a public utility, the Board annually assesses Petitioner’s property. See Idaho Code § 63-201(16) and 205.

To “assist [the Board] in fixing the value of” operating property, the Board may hold hearings to obtain “evidence, facts or information” from “any officer, manager or agent of such person, whose property is to be assessed[.]” Idaho Code §63-406. Likewise, “[e]very person whose property is to be assessed” is entitled to such a hearing before the Board “in relation to the assessment on his property or the assessment of other property in the state[.]” Idaho Code § 63-407.

Petitioner requested a hearing before the Board in relation to its 2025 assessment of the Property. Petitioner asserted in its petition that the 2025 appraisals prepared by Staff were not “made through procedures, methods, and techniques accepted by nationally recognized appraisal and valuation organization.” Petitioner’s Appeal and Request for Hearing, p. 1 (July 21, 2025) (hereinafter “Petition”). It further asserted that the Staff’s appraisal “exceed[ed] fair market value as defined in Idaho Code § 63-201[.]” Petition, p. 1. It specifically argued that the Staff’s appraisal:

1. Understated discount rate because Commission staff did not use the build-up method as ordered by the Court but instead used a modified build-up method including a novel, modified mid-year convention and no company-specific risk.
2. Grossly overstated project revenues.
3. Overstated project revenue growth rate.
4. Grossly understated project operating expenses.
5. Understated project operating expense growth rate.

6. Failure to normalize operating expenses to include normal labor and management costs.

7. Failure to normalize operating expenses to include normal property and water use costs.

8. Overstated Net Operating Income (NOI).

9. Added weighted value from market indicator instead of full income indicator.

10. Overall failure to employ conservative assumptions as required by the agreed-to Judgment of the Court.

Petition, pp. 1-2. Petitioner's appeal makes reference to a "*Judgment* of the Court." This is a reference to *Idaho Hydroelectric Producers Trusts v. Idaho State Tax Commission*, a district court case related to a prior assessment of hydroelectric property. Case No. CV01-19-16618 (Idaho Dist. Ct. May 11, 2023).

Pursuant to Property Tax Rule 407.02, Petitioner and Staff entered into a stipulation. That rule permits a property owner to "request a stipulated finding that would result in an appealable decision in lieu of a hearing before the State Board of Equalization." Property Tax Rule 407.02. Petitioner, collectively with 26 other property owners who likewise petitioned for an assessment hearing, stipulated that the issues identified in its 2025 petition for hearing were "substantially the same issues on which Petitioners requested a hearing on their 2024 operating property tax assessments." Stipulation and Agreement to Waive Hearing and to Hold the 2025 Appeal in Abeyance Pending the 2024 Appeal, p. 1 (July 30, 2025).

As a result of this stipulation, no hearing was held related to Petitioner's 2025 request for an assessment hearing. Petitioner did not submit any additional materials to accompany its request for a hearing. Petitioner did not provide an estimate of value for the Property. For the 2025

assessment hearing, the record established in this case consists of the Staff's appraisal and the operator statement submitted by Petitioner.

Staff's appraisal was performed by Tim Hurst, a Certified Property Tax Appraiser. For the Property, Mr. Hurst considered the three (3) approaches to value: the cost approach, income approach and market approach. Appraisal of Birch Power Company DBA Birch Creek Hydro, p. 7-9 (hereinafter "Appraisal") and *see* Property Tax Administrative Rule 405.03. In his appraisal, Mr. Hurst "reconcile[d]" or weighted the considered approaches to value to derive a single estimate of value. Appraisal, p. 8. After reconciling his approaches to value, Mr. Hurst appraised the value of the Property to be \$2,917,000. Appraisal, p. 4.

CONCLUSION AND DECISION


Petitioner did not submit any evidence to support its claims that Staff's appraisal does not accurately reflect market value for assessment purposes. Based on the undisputed evidence in the record and after reviewing the record and materials submitted by the parties, we, the Idaho State Tax Commission, sitting as the Board of Equalization, find that Staff's appraisal accurately reflects market value for assessment purposes. The Board hereby assesses \$2,917,000 to be the taxable value of Petitioner's operating property.

DATED this 25th day of August 2025.


IDAHO STATE TAX COMMISSION



Jeff McCray
Commissioner



Jared Zwygart
Commissioner



Janet Moyle
Commissioner

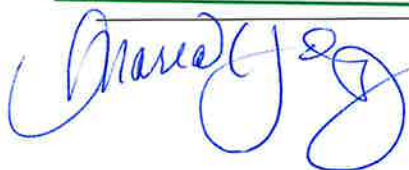
CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of August 2025, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

C. Tom Arkoosh
Arkoosh Law Offices
913 West River Street, Suite 450
P.O. Box 2900
Boise, ID 83701

Receipt No.

7019 2970 0000 3044 1881

A handwritten signature in blue ink, appearing to read "Arkoosh", is written over a horizontal green line.